

REMARKS

Applicant respectfully requests reconsideration.

Claims 26-35 were previously pending in this application.

By this Amendment, Applicant is canceling non-elected claims 33-35 without prejudice or disclaimer. Applicant reserves the right to pursue the subject matter of the canceled claims in one or more continuation or divisional applications.

As a result, claims 26-32 are pending for examination with claim 26 being an independent claim. No new matter has been added.

Double Patenting Rejection

Claims 26-32 are rejected under the judicially created doctrine of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-7 of U.S. Patent No. 6258597 (Bachovchin et al.).

Without conceding the correctness of the Examiner's position and rather in the interest of expediting prosecution, Applicant submits herewith a Terminal Disclaimer over U.S. Patent No. 6258597, signed by Michael P. Duffy. Accompanying the Terminal Disclaimer is a Statement under 37 CFR 3.73(b) evidencing the ownership interest of Point Therapeutics, Inc. in the present application.

In view of this submission, the Examiner is respectfully requested to reconsider and withdraw the rejection.

Claims 26 and 27 are rejected under the judicially created doctrine of nonstatutory obviousness-type double patenting as being unpatentable over claims 9, 11, 15 and 18 of U.S. Patent No. 6703238 (Bachovchin et al.).

Without conceding the correctness of the Examiner's position and rather in the interest of expediting prosecution, Applicant submits herewith a Terminal Disclaimer over U.S. Patent No. 6703238, signed by Michael P. Duffy. Accompanying the Terminal Disclaimer is a Statement under 37 CFR 3.73(b) evidencing the ownership interest of Point Therapeutics, Inc. in the present application.

In view of this submission, the Examiner is respectfully requested to reconsider and withdraw the rejection.

Claims 28-32 are rejected under the judicially created doctrine of nonstatutory obviousness-type double patenting as being unpatentable over claims 9, 11, 15 and 18 of U.S. Patent No. 6703238, in view of claims 1-7 of U.S. Patent No. 6258597.

Without conceding the correctness of the Examiner's position and rather in the interest of expediting prosecution, Applicant submits herewith a Terminal Disclaimer over U.S. Patent No. 6703238 and a Terminal Disclaimer over U.S. Patent No. 6258597, each signed by Michael P. Duffy. Accompanying the Terminal Disclaimers is a Statement under 37 CFR 3.73(b) evidencing the ownership interest of Point Therapeutics, Inc. in the present application.

In view of this submission, the Examiner is respectfully requested to reconsider and withdraw the rejection.

CONCLUSION

A Notice of Allowance is respectfully requested. The Examiner is requested to call the undersigned at the telephone number listed below if this communication does not place the case in condition for allowance.

If this response is not considered timely filed and if a request for an extension of time is otherwise absent, Applicant hereby requests any necessary extension of time. If there is a fee occasioned by this response, including an extension fee, that is not covered by an enclosed check, please charge any deficiency to Deposit Account No. 23/2825.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'EL-HAYEK', is written over a horizontal line.

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